

28

July 13, 1935.

Mrs. Rosena Harneson, Secretary,
Board of Beauty Culture Examiners,
First National Bank Building,
Phoenix, Arizona.

Dear Mrs. Harneson:

We have your question as to whether the qualified instructors of the approved and licensed beauty culture schools at and before the effectiveness of Chapter 52, Laws of 1933, have authority to continue as such instructors without having passed the examination for operators and teachers, as provided in paragraph (b) of Section 7 of the chapter.

The law relative to the practice of cosmetology, prior to the enactment by the last legislature, appeared as a part of Chapter 59 of the Laws of 1931. The Act passed by the last legislature makes no special reference to said Chapter 59, hence it only amends or repeals by implication. The former act provides for the establishment of schools. The two acts in regard to schools are very similar.

In subdivision (c) of Section 3 of Chapter 59, Laws of 1931, we find this language:

"The board of barbers and cosmeticians must first approve the curriculum of the school before it may be licensed as such, and no instructor who has not been licensed by the board shall be employed in any school."

It is to be assumed that upon entering office on June 28d, you found the licensed schools operated by instructors who had been licensed by your predecessor board. The act of 1931 provides that all licenses expire on December 31st. The act under which you operate (Section 13), also provides that all certificates expire on December 31st of each year. We quote from Section 13 of the later act:

"EXISTING LICENSES AND CERTIFICATES. (a) Nothing in this act shall be construed as affecting any valid and unexpired license issued under the laws of this state prior to the date this act takes effect, auth-

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orizing the person to whom issued to practice as a cosmetician or beauty culturist, apprentice cosmetician or beauty culturist, manicurist, or finger waver."

The requirements to practice as an instructor are fixed by subparagraph (b) of Section 7 of the Act of 1935. The provision follows:

"(b) Any person shall be qualified to receive a certificate to practice as a registered instructor who (1) is a registered beauty culturist; (2) satisfactorily passes an examination to instruct in a beauty school. A certificate of registration to practice as an instructor shall include authority to practice as a beauty culturist."

We have read the Act of 1935 without finding any special provisions in regard to the qualifications of an instructor. There is a general provision that the Board shall make regulations for the administration of the act. The former Board, in its administration, may have provided no additional requirements of an instructor other than that she be a licensed cosmetician. However, when your Board took office it found approved and licensed schools being conducted. It must be presumed that instructors in those schools were legally qualified by the form of licenses that they then held. Such licenses would not expire until December 31, 1935. The instructors have a fixed right, we think, in such license, had they been employed regularly as teachers before the act under which you operate became effective. This right would not expire until December 31, 1935.

Respectfully,

JOHN L. SULLIVAN,
Attorney General.

JOHN W. MURPHY,
Assistant Attorney General.